

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

FILED

FEB 28 1990

ASHEVILLE, N. C.
U. S. DISTRICT COURT
WESTERN DISTRICT OF N.C.

IN RE: ASBESTOS-RELATED
LITIGATION

WDCP-83-1

INTEGRATION ORDER REGARDING MANVILLE CORPORATION
ASBESTOS DISEASE COMPENSATION FUND

This Order shall apply to all cases currently pending in this Court and to all cases filed in this Court in the future in which the plaintiff or plaintiffs seek personal injury damages arising out of their alleged exposure to asbestos. A list of all pending cases, not calendared for trial before July, 1990, in this Court (hereinafter referred to as "the list") is attached hereto as Exhibit 1 and made a part of this Order.

On August 8, 1989, Defendant, Owens-Corning Fiberglas ("OCF"), filed a motion to add Manville Corporation Asbestos Disease Compensation Fund (the "Fund"), which was created by an order of the United States Bankruptcy Court for the Southern District of New York, into this litigation. OCF sought to add the Fund as a third-party defendant in all asbestos personal injury cases currently pending against it.

On August 11, 1989, the Court received a letter and proposed Integration order from James Orr of the law firm of Bowers & Orr of Columbia, South Carolina, indicating that they represented the Fund and if the Fund were to be added as a third-party defendant, then the attorneys for the Fund wanted input concerning an

integration order adding the Fund. On September 20, 1989, the plaintiffs in the asbestos litigation filed a pleading requesting a hearing to provide input into any integration order. The Court scheduled a hearing for January 4, 1990, at Asheville, North Carolina, to consider Defendant OCF's motion to add the Fund as a third-party defendant in pending asbestos cases. Counsel for the parties waived hearing and requested that the Court enter an order consistent with the Manville Fund Integration order adopted by the Middle District of North Carolina on November 13, 1989.

In order to promote the efficient, economic and effective management of asbestos litigation in this Court, the following guidelines will be entered to facilitate the orderly integration of the Fund into these cases.

For purposes of this Order, the Fund will be deemed to have submitted itself to the personal jurisdiction of this Court. It is, therefore, ORDERED that the Fund will be integrated into the litigation as follows:

JOINDER PROCEDURES

1. Effective with the entry of this Order, or one hundred twenty (120) days after service of the summons and complaint in a particular matter, whichever is later, each defendant desiring to assert a third-party complaint or crossclaim for contribution against the Fund in any individual case may do so by filing written notice and acknowledgment of service with this Court and serving notice upon the Fund and all parties to that particular action

asserting such third-party complaint or crossclaim. (See Exhibit 2, "Notice of Claim," attached hereto.) Such notice shall apply only to the particular case in which it is filed. All such claims should be filed as soon as is reasonably possible but in no event closer to trial than 150 days. Nothing herein shall prevent any defendant, if it chooses to do so, from serving and filing third-party complaints, crossclaims, or original complaints for contribution against the Fund in any individual action as otherwise allowed by law. Use of the form attached hereto as Exhibit 2 shall accomplish the same result, however, and in a more efficient and less expensive manner.

2. The Fund is represented by the following attorneys:

Glenn Bowers
James W. Orr
Bowers & Orr
1401 Main Street, Suite 740
Post Office Box 7307
Columbia, South Carolina 29202

Richard Bennett
Bell, Davis & Pitt
Suite 200
635 West Fourth Street
Post Office Box 49
Winston-Salem, North Carolina 27102

Counsel for the Fund shall be deemed to have entered an appearance for the Fund in each case in which notice of a third-party complaint or crossclaim is given and to have answered and denied the same. However, the designation of such counsel is limited solely to the terms of this Order and does not in any way create

authorization for said counsel to act as agent to accept original service of process.

3. The Fund may file one standard answer with affirmative defenses applicable to all such third-party complaints and/or crossclaims or it may file individual answers, if it so chooses, within twenty (20) days after being served with the notice referred to in Paragraph 1 hereof. Nothing herein shall prevent the Fund from moving the Court for an order allowing the filing of an amended individual answer with affirmative or special defenses in any individual case.

4. The Fund shall notify defendants asserting contribution claims in any case on the list, and as to any case filed in the future, within sixty (60) days of settlement of the underlying plaintiffs' claims, or as otherwise provided or required by Paragraph III, A, 3 of Annex F to the Trust Agreement applicable to the Manville Plan of Reorganization.

PLAINTIFFS' PROOF OF CLAIMS PROCEDURES AND
AMENDMENT TO PLAINTIFFS' COMPLAINTS

5. In all cases in which a defendant has served and filed the notice required in Paragraph 1, above, and if the plaintiff has completed the Claims Resolution Procedures ("CRP") set forth as Annex B to the Trust Agreement incorporated into the Second Amended and Restated Plan of Reorganization ("Plan"), such plaintiff shall have the right to amend his complaint to assert a claim directly

against the Fund. In order to assert such a direct claim, the following procedures shall be used:

(a) Plaintiff may serve notice after he believes he has met the criteria of the CRP.

(b) The Fund shall have thirty (30) days from the date plaintiff's notice is served to verify that the criteria have in fact been met and to serve and file notice with the court if it contests that fact.

(c) The Fund will be deemed to have filed a general denial. The Fund may file one standard answer setting forth all affirmative defenses on which it relies or it may file individual answers to plaintiff's claims against it, if it so chooses, also setting forth all affirmative defenses upon which it relies, within thirty (30) days after being served with the notice of plaintiff's direct claim against the Fund as referred to in Paragraph 5(a) hereof. Nothing herein shall prevent the Fund from moving the court for an order allowing the filing of an amended individual answer with additional affirmative or special defenses in any individual case.

6. In order to allow the Fund time to prepare for its integration into cases pending before this Court, all cases presently scheduled for trial in the months of February, March, April and May, 1990, shall be excluded from this Order. For cases scheduled for trial prior to July 30, 1990, to assert a third-party complaint or crossclaim against the Fund, defendants must

follow the procedures set forth in Rules 13 or 14 of the Federal Rules of Civil Procedure.

7. (a) Upon entry of this Order, by agreement with Haynsworth, Marion, McKay & Guerard, and Nelson, Mullins, Riley & Scarborough, the Fund shall be allowed to review and obtain copies from the files of Haynsworth, Marion, McKay & Guerard, and Nelson, Mullins, Riley & Scarborough, of any and all pleadings, medical record, and discovery data, subject to reasonable compensation for such fees and expenses as are incurred. This procedure shall govern review of the files for all pending cases.

(b) Any other information sought by the Fund apart from what it is able to obtain pursuant to Paragraph 7(a) above shall be provided to the Fund at its request, on reasonable notice, by the party that produced such information in discovery, at the costs of the producing party if the document or information is of such a nature as would have been served at that parties' expense anyway during the course of litigation had the Fund then been a party. All other relevant, discoverable information sought by the Fund shall be provided by the party having custody of such information, on reasonable notice, and upon reasonable compensation (including a pro rata share of a deposition or expert witness fee, for example), and a copying charge not to exceed twenty cents (\$.20) per page.

(c) Within fifty (50) days after the date of service of notice required by Paragraph 1 above, the Fund shall serve and file

any request for supplemental discovery in any case that this Court has set for trial in July, 1990, and within one hundred twenty (120) days from the date of service of notice required by Paragraph 1 above (or fifty (50) days after a case is identified in the pending case list, whichever is later) the Fund shall serve and file any requests for supplemental discovery in all other cases listed on the pending case list.

(d) Failure of any party to adhere to the time limits set forth in this paragraph or otherwise to comply with discovery obligations shall not justify any other party's departure from those time limits or delay the trial of any action unless such failure is called to the Court's attention immediately for remedy.

(e) Regardless of the manner in which the Fund is brought into an action, counsel for plaintiffs and defendants shall cooperate with counsel for the Fund in providing copies of existing pleadings and discovery materials.

8. In any case where the Fund has been joined and it settles with the plaintiff by appropriate order or stipulation of dismissal with prejudice, said order shall likewise operate as a dismissal with prejudice as to any third-party claims against the Fund then pending without the necessity of further motion and order of the court. This order shall not operate to integrate the Fund as a third-party defendant in any case in which the Fund has reached a settlement with the plaintiff(s).

9. Nothing contained in this Order shall in any way change the rights of any party under the Manville Corporation Second Amended and Restated Plan of Reorganization.

The Clerk is directed to mail a copy of this Order to the Fund by its attorneys, James W. Orr of the Law firm Bowers & Orr of Columbia, South Carolina; and Richard Bennett of the law firm Bell, Davis & Pitt of Winston-Salem, North Carolina; and to Mona Lisa Wallace of the law firm Wallace and Pope, designated by this Court as plaintiffs' liasion counsel, and James Russell Sugg of the law firm Poisson, Barnhill & Britt, designated by this Court as liaison counsel for defendants, who are directed to distribute copies of the Order forthwith to all interested parties.

IT IS SO ORDERED.

THIS the 28th day of February, 1990.


RICHARD L. VOORHEES
UNITED STATES DISTRICT COURT JUDGE

EXHIBIT 1

PENDING ASBESTOS CASES NOT CALENDARIED FOR TRIAL
BEFORE JULY, 1990

A-C-88-120	PARTON v. ARMSTRONG, ET AL
A-C-88-172	HAMLIN v. ARMSTRONG, ET AL
A-C-88-207	COOPER v. ARMSTRONG, ET AL
A-C-89-146	GARRISON v. CELOTEX, ET AL
A-C-89-229	COOPER v. ACandS, ET AL
C-C-88-99	HILTON v. ACandS, ET AL
C-C-88-157	MUSSMAN v. ARMSTRONG, ET AL
C-C-88-219	TYSON v. ARMSTRONG, ET AL
C-C-88-244	CRAWFORD v. ACandS, ET AL
C-C-88-246	LINDLEY v. ACandS, ET AL
C-C-88-248	ELLIS v. ACandS, ET AL
C-C-88-299	TAYLOR v. ACandS, ET AL
C-C-88-338	QUEEN v. ACandS, ET AL
C-C-88-346	BALDWIN v. ACandS, ET AL
C-C-88-350	DUNN v. ACandS, ET AL
C-C-88-373	BRASWELL v. ACandS, ET AL
C-C-88-375	CRAWFORD v. ACandS, ET AL
C-C-88-378	BLANKENSHIP v. ACandS, ET AL
C-C-88-407	MULLINAX v. ACandS, ET AL
C-C-88-459	HOPE v. ACandS, ET AL
C-C-88-469	WILLIAMS v. ACandS, ET AL
C-C-88-470	CAUTHEN v. ACandS, ET AL
C-C-88-512	MCDOWELL v. ACandS, ET AL
C-C-88-515	WILLIAMS v. ACandS, ET AL
C-C-88-519	KISIAH v. CELOTEX, ET AL
C-C-88-524	SHELBY v. ACandS, ET AL
C-C-88-526	ENSLEY v. ACandS, ET AL
C-C-89-107	BEATY v. CAREY CANADA, ET AL
C-C-89-108	THOMAS v. ACandS, ET AL
C-C-89-109	WILKERSON v. ACandS, ET AL
C-C-89-120	WILSON v. ACandS, ET AL

C-C-89-121	CONDER v. ACandS, ET AL
C-C-89-123	SMITH v. ACandS, ET AL
C-C-89-124	NICHOLS v. ACandS, ET AL
C-C-89-125	KINLEY v. ACandS, ET AL
C-C-89-161	EDWARDS v. ACandS, ET AL
C-C-89-162	MARTIN v. ARMSTRONG, ET AL
C-C-89-163	WALLACE v. ACandS, ET AL
C-C-89-169	HUSKINS v. ACandS, ET AL
C-C-89-170	O'DARE v. ACandS, ET AL
C-C-89-180	JONES v. ACandS, ET AL
C-C-89-231	CARTER v. ACandS, ET AL
C-C-89-234	ALLEN v. ARMSTRONG, ET AL
C-C-89-235	PRESSON v. ARMSTRONG, ET AL
C-C-89-236	THOMAS v. ARMSTRONG, ET AL
C-C-89-245	MORRIS v. ARMSTRONG, ET AL
C-C-89-334	ARMSTRONG v. ACandS, ET AL
C-C-89-362	DARBY v. ACandS, ET AL
C-C-89-399	McANDREW v. ACandS, ET AL
C-C-89-437	BEDDINGFIELD v. ACandS, ET AL
C-C-89-440	WILLIAMS v. ACandS, ET AL
SH-C-88-152	BOYES v. ARMSTRONG, ET AL
SH-C-88-167	CRAWFORD v. ACandS, ET AL
SH-C-88-206	TATE v. ACandS, ET AL
SH-C-88-208	McMURRY v. ACandS, ET AL
SH-C-88-211	McMURRY v. ACandS, ET AL
SH-C-88-223	CRAWLEY v. ACandS, ET AL
SH-C-88-233	HICKS v. ARMSTRONG, ET AL
SH-C-88-275	MARTIN v. ACandS, ET AL
SH-C-89-48	DAVIS v. ACandS, ET AL
ST-C-88-58	CALDWELL v. ACandS, ET AL
ST-C-88-59	HUMPHRIES v. ACandS, ET AL
ST-C-88-90	TREXLER v. ACandS, ET AL
ST-C-88-95	DELLINGER v. ACandS, ET AL
ST-C-88-96	SHORT v. ACandS, ET AL
ST-C-88-102	DUNCAN v. ARMSTRONG, ET AL

ST-C-88-111	BECKHAM v. ACandS, ET AL
ST-C-88-121	MARTIN v. ACandS, ET AL
ST-C-88-130	NEWTON v. ACandS, ET AL
ST-C-88-133	GOFORTH v. ACandS, ET AL
ST-C-88-134	FINGER v. ACandS, ET AL
ST-C-88-150	SPAKE v. ACandS, ET AL
ST-C-88-175	GIBSON v. ARMSTRONG, ET AL
ST-C-89-43	MYERS v. ACandS, ET AL
ST-C-89-44	SMITH v. ACandS, ET AL
ST-C-89-47	BRIDGES v. THE ANCHOR, ET AL
ST-C-89-53	BALLARD v. ACandS, ET AL
ST-C-89-54	WILSON v. ACandS, ET AL
ST-C-89-112	YANDLE v. ARMSTRONG, ET AL
ST-C-89-115	LEONARD v. ACandS, ET AL
ST-C-89-151	EDWARDS v. ACandS, ET AL
ST-C-89-160	STANKOVICH v. ARMSTRONG, ET AL
ST-C-90-17	PERKINS v. ACandS, ET AL

EXHIBIT 2

NOTICE OF CLAIM

Comes the defendant(s) _____

by and through counsel, pursuant to the Integration Order Regarding
Manville Corporation Asbestos Disease Compensation Fund (the
"Fund") filed in the United States District Court for the Western
District of North Carolina on _____, and
hereby submits Notice of the assertion of a _____
_____ claim against the Fund in the case
of _____

_____.

Respectfully submitted, this the _____ day of _____

_____.

BY: _____